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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,372	02/09/2004	Wayne Hartley	303.002	9922

7590 03/24/2006

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EXAMINER

BLAKE, CAROLYN T

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/775,372

Applicant(s)

HARTLEY, WAYNE

Examiner

Carolyn T. Blake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/>Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
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### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on January 6, 2006.
2. The text of those sections in Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the slot in the first side dam and the slot in the second side dam (claim 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The disclosure is objected to because the replacement specification filed on January 6, 2006 does not contain a detailed description of the elected embodiment shown in FIGS 10-14. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. Claims 14-19 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Roux (723,033).

Roux discloses a device capable of clipping nails as claimed, including: a. a lower tray (bottom surface of bed plate D, see the *Figures* section at the end of this Office action); b. a first side dam (side wall of bed plate D, see *Figures* section) extending upwardly from a first side of said lower tray, said first side dam having a generally vertical slot (recessed area D') in an interior thereof; c. a second side dam (side wall of bed plate D on the opposite side) extending upwardly from a second side of said lower tray that is opposite said first side of said lower tray, said second side dam having a generally vertical slot (D') in an interior thereof; d. an upper jaw (including curved arms F) that is displaceable relative to said lower tray; e. a blade (E) that is pivotally mounted to a lower portion of said upper jaw, said blade (E) extending below said upper jaw and into said generally vertical slot (D') in said first side dam and said generally vertical

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slot (D') of said second side dam, wherein said blade (E) travels in said generally vertical slot (D') in said first side dam and said generally vertical slot (D') in said second side dam when said upper jaw is displaced relative to said lower tray. The blade (E) can be considered "pivotally mounted" as claimed because it is mounted to an upper jaw that pivots about a pivot point C. In addition, the Roux device anticipates the limitation regarding the blade extending into and traveling in the slot because the blade of the Roux device pierces the cushion G during a cutting operation. It is inherent the blade pierces the cushion during operation because it is disclosed the cushion is made from a soft material and can be removed and replaced. See col. 1, lines 32-38. Finally, while the Roux blade may not be precisely vertical to the lower tray during its full range of motion, it will generally be vertical during a small range of motion, such as to cut a thin work piece, and thus anticipates the claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 22 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Roux.

As shown in FIG 3, the side dams of Roux appear to be at an angle between 30 and 60 degrees. However, to the extent it can be argued this is speculative, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the angle of the blade wings and side dams of the Roux device in order to accommodate a particular work piece.

***Allowable Subject Matter***

8. Claims 20 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Figures***

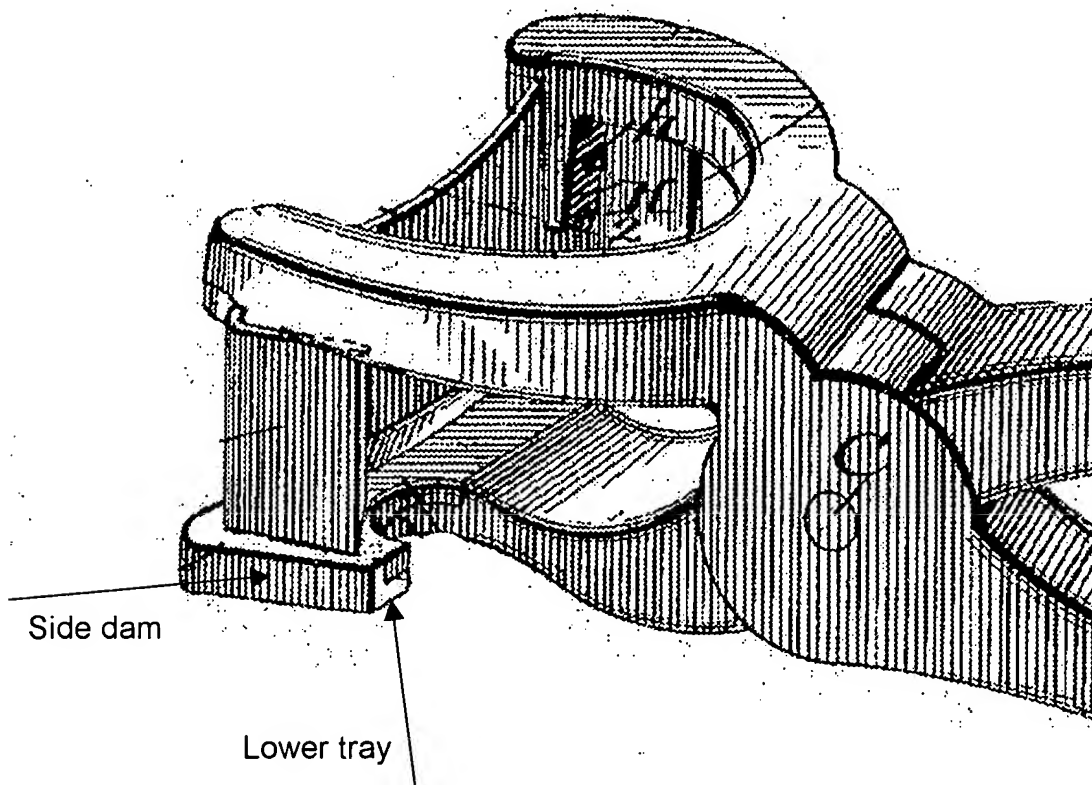


FIG A: US patent 723,033 to Roux, Figure 1. Lead lines and reference numbers added by the examiner.

***Response to Arguments***

9. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CB

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March 17, 2006

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700